

Message Text

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TO AMEMBASSY BUDAPEST

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E. O. 11652: N/ A

TAGS: HU, EFIN, EIND

SUBJECT: APPLICABILITY OF JOHNSON ACT TO HUNGARY

REF: BUDAPEST 1068

1. HUNGARY IS IN DEFAULT ON A DEBT OF APPROXIMATELY \$4 MILLION LOANED BY USG TO GOH AFTER WORLD WAR I. THIS FACT IS WELL KNOWN TO US BUSINESS AND BANKING CIRCLES AND IS LISTED IN US TREASURY PUBLICATION, " FOREIGN CREDITS BY THE UNITED STATES GOVERNMENT," DECEMBER 31, 1971, ON PAGE 152. INFORMATION ON APPLICABILITY OF THE JOHNSON ACT TO HUNGARY WAS SUPPLIED TO MANUFACTURERS PRESIDENT HAUGE BY UNDER SECRETARY CASEY AT HAUGE' S REQUEST.

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2. THIS DEBT WAS NOT INCLUDED IN THE CLAIMS AGREEMENT OF MARCH 6, 1973 BECAUSE THAT AGREEMENT REPRESENTS A SETTLEMENT OF CLAIMS OF US NATIONALS RPT NATIONALS FOR WAR- DAMAGED AND NATIONALIZED PROPERTY. THE SPECIFIC CLAIMS SETTLED BY THE AGREEMENT ARE ENUMERATED IN ARTICLE 2 OF THE AGREEMENT (COPIES POUCHED TO EMBASSY). THERE IS ONLY ONE USG CLAIM SETTLED BY THIS AGREEMENT: THE AERIAL INCIDENT OF 1952. EXCEPT FOR THIS CLAIM, GOVERNMENT- TO- GOVERNMENT CLAIMS SUCH AS THE USG CLAIM FOR PROPERTY LOCATED AT ROOSEVELT TER, THE HUNGARIAN CLAIM TO THE CROWN OF ST. STEPHEN, THE SURPLUS PROPERTY DEBT AND THE WORLD WAR I DEBT ARE NOT INCLUDED IN THE AGREEMENT. THE GOH SHOULD HAVE NO DIFFICULTY IN UNDER- STANDING THIS POSITION.

3. THE JOHNSON ACT BEARS NO RPT NO RELATION TO CLAIMS OF US NATIONALS FOR WAR- DAMAGED AND NATIONALIZED PROPERTY, WHICH ARE NOW SETTLED IN THE CASE OF HUNGARY, OR DEFAULTED BONDS, WHICH ARE CURRENTLY UNDER NEGOTIATION BETWEEN HUNGARY AND THE FOREIGN BONDHOLDERS PROTECTIVE COUNCIL.

4. FEKETE' S CONCERN IS BASED ON THE FACT THAT THE JOHNSON ACT PREVENTS THE HUNGARIAN NATIONAL BANK FROM BORROWING DIRECTLY FROM US NATIONALS (BANKS) FOR OTHER THAN TRADE FINANCING AT USUAL COMMERCIAL TERMS. THE JOHNSON ACT FORBIDS THE PURCHASE OR SALE WITHIN THE US OF BONDS OR OTHER FINANCIAL OBLIGATIONS OF FOREIGN GOVERNMENTS WHICH ARE IN DEFAULT TO THE USG RPT USG. COUNTRIES WHICH ARE MEMBERS OF THE IMF AND IBRD ARE EXEMPT FROM THE PROVISIONS OF THE ACT, AS ARE PUBLIC ENTITIES SUCH AS CCC AND EXIM BANK. ADDITIONALLY, THE ATTORNEY GENERAL HAS RULED THAT THE ACT DOES NOT PROHIBIT FINANCING OF EXPORT SALES PROVIDED THAT TRANSACTIONS ARE BASED ON BONA FIDE BUSINESS CONSIDERATIONS AND DO NOT INVOLVE DISTRIBUTION OF SECURITIES. NOR DOES THE ACT PREVENT OVERSEAS BRANCHES OF AMERICAN BANKS FROM EXTENDING CREDITS WHICH EXCEED USUAL COMMERCIAL TERMS SINCE OFF- SHORE OPERATIONS ARE NOT CONSIDERED TO BE AFFECTED BY THE ACT.

5. APPLICATION OF THE JOHNSON ACT TO HUNGARY IS AND HAS LIMITED OFFICIAL USE

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BEEN BASED EXCLUSIVELY ON HUNGARY' S DEFAULT ON PAYMENTS ON THE WORLD WAR I DEBT.

6. EMBASSY SHOULD POINT OUT THAT SECTION 706 (G) OF THE TRADE REFORM ACT OF 1973 CONTAINS PROVISION FOR THE REPEAL OF THE JOHNSON ACT. ADMINISTRATION DESIRE FOR REPEAL OF THE JOHNSON ACTIS, IN PART, BASED ON PROBLEMS

ALLUDED TO BY FEKETE. EMBASSY SHOULD ALSO POINT OUT TO
FEKETE THAT HUNGARY'S DEFAULT ON WORLD WAR I DEBT WILL
NOT AFFECT OVERALL NORMALIZATION OF OUR ECONOMIC RELATIONS.
EMBASSY MAY WISH TO POINT TO EXAMPLE OF POLAND, WHICH
IS ALSO IN DEFAULT ON WORLD WAR I DEBT BUT WHICH HAS
BEEN ACCORDED MOST FAVORED NATION TARIFF TREATMENT AND
EXPORT- IMPORT BANK FACILITIES. ONCE AUTHORITY HAS BEEN
GRANTED BY CONGRESS, WE LOOK FORWARD TO THE NEGOTIATION
OF MOST FAVORED NATION TARIFF TREATMENT ON A
RECIPROCAL BASIS WITH HUNGARY. ROGERS

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